

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

V.

AMBER MARIE PICKARD

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CRIMINAL NO. 6:04-CR-52-2

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On April 25, 2007, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Amber Marie Pickard. The government was represented by William D. Baldwin, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Assistant Federal Public Defender Ken Hawk.

Defendant originally pleaded guilty to the offense of conspiracy to possess with intent to distribute methamphetamine, a Class C felony. The offense carried a statutory maximum imprisonment term of 20 years. The guideline imprisonment range, based on a total offense level of 21 and a criminal history of category I, was 37 to 46 months. Defendant was subsequently sentenced to 37 months imprisonment followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include participation in a program of testing and treatment for drug abuse. On October 12, 2007, Defendant completed her period of imprisonment and began service of the supervision term. Defendant agreed to a modification of her conditions of release to include residing in a residential reentry or similar facility for a period of 180 days once released from custody. Defendant's conditions of release were again modified on November 13, 2007, where Defendant was thereafter required to participate in mental health counseling.

In its petition, the government alleges that Defendant violated her conditions of supervised

release when, on February 4, 2008, Defendant was unsuccessfully discharged from the County Rehabilitation Center, Inc. ("CRC") for rules violations, including her acceptance of two vehicles as gifts from another federal resident, and possession of a cell phone. If the Court finds by a preponderance of the evidence that Defendant committed these violations, a statutory sentence of no more than three years of imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). Pursuant to Section 7B1.1(a) of the Sentencing Guidelines, violating a condition of supervision by being unsuccessfully discharged from the CRC for rules violations, including acceptance of vehicles from another federal resident and possessions of a cell phone, would be a Grade C violation, for which the Court may either revoke supervised release, or extend the term of supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of I, the Guideline imprisonment range for a Grade C violation is 3 to 9 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the violations. In exchange, the government agreed to recommend a sentence of nine months and sixty-four days in exchange for no further charges on Defendant's failure to appear for the originally scheduled February 21, 2008 revocation hearing.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Amber Marie Pickard be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 9 months and 64 days with no supervised release to follow. The Court also **RECOMMENDS**, if possible, that Defendant be incarcerated at the facility in Bryan, TX.

The parties have waived their right to object to the findings of the Magistrate Judge in this matter, so the Court will present this Report and Recommendation to District Judge Michael H.

Schneider for adoption immediately upon issuance.

So ORDERED and SIGNED this 25th day of April, 2008.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE